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OFFICE OF PETITIONS

In re Application of	:	
Cassell et al.	:	
Application No. 09/767,413	:	ON PETITION
Filed: 23 January, 2001	:	
Atty Docket No. 887	:	

This is a decision on the renewed petition under 1.137(b),¹ filed on 7 October, 2005, to revive the above-identified application.

The petition is **GRANTED**.

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

This application became abandoned on 8 April, 2005, for failure to properly to the final Office action mailed on 7 January, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. The petition filed on 24 August, 2005, was dismissed on 27 September, 2005. Notice of Abandonment was mailed on 3 October, 2005.

Petitioner has filed a Notice of Appeal as the required reply.

The Notice of Appeal filed 24 August, 2005, has been entered and made of record. Accordingly, the two (2)-month period for filing the Appeal Brief, in triplicate, accompanied by the fee required by law, runs from the date of this decision.

The application will be referred to Technology Center Art Unit 2632 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



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